

REMARKS

Claims 1-4, 6-10, 12-20, and 22-27 are pending in the application.

Claim Rejection 35 U.S.C. § 103

35 U.S.C. § 103(a)

When applying 35 U.S.C. §103, the following tenets of patent law must be adhered to: (A) the claimed invention must be considered as a whole; (B) the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) reasonable expectation of success is the standard with which obviousness is determined. *See MPEP § 2141 and Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 220 USPQ 182, 187 n.5 (Fed. Cir. 1986).

Claims 1-4, 6-10, 12, and 23-27 stand rejected over Levine (United States Patent Number 5,692,214), hereinafter Levine, in view of Ellis et al. (United States Patent Number 5,986,650), hereinafter Ellis. The rejection is respectfully traversed.

With respect to Claim 1, (and generally Claims 2-4 and 6 which ultimately depend from Claim 1) the Office is correct that Levine fails to teach registering an application with an electronic program guide (EPG). The Office is incorrect that the Ellis reference corrects this deficiency. Levine teaches a channel dedicated for broadcasting/displaying a time-based grid of program schedule information. Levine, Col. 2, lines 5-8. Levine fails to teach a method including the steps of registering an application with the EPG, and associating an application with an event as recited in the Claims. The cited portion of Ellis describes powering-up a system utilizing boot-strap operating software which verifies whether program guide software is in memory; if the program guide software is not present, the software waits for a down-load. This is not the present invention. Ellis describes system software for boot-up. Ellis fails to teach or suggest the obviousness of a

method including registering an application with an EPG and associating the application with an event. For example, by displaying program guide information ten minutes before the end of a show. Instant Specification, Page 8, line 13-Page 9, line 2. Ellis merely teaches that upon boot-up if the program guide software is not in memory the system is configured to wait for a down-load. Ellis does not teach or suggest registering an application such as by linking an application which needs to be executed (e.g., started or stopped) with EPG information (Instant Specification, Page 8, lines 1-3.) and associating the application with an event (e.g., 10 minutes prior to the end of a program) as recited in the claims. In contrast, Ellis teaches if the program guide is not in memory at start-up the system waits for a down-load. Ellis never registers an application with the EPG (such as by associating the application with EPG information). Further, neither Ellis, nor Levine (Specifically, Col. 3 line 67 through Col. 4 line 4) either separately or in combination teach associating the application with an event and registering the application with respect to EPG data. Levine teaches updating the schedule at a particular time. Levine fails to register an application with the EPG and monitor for occurrence of the event while receiving information. The combination of Levine and Ellis fails to make obvious the claimed combination because Ellis fails to correct Levine's deficiency. In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *M.P.E.P. §2141.02 citing Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed Cir. 1983). Emphasis original. In light of the foregoing, a *prima facie* case of obviousness under 35 U.S.C. §103(a) has not been met and removal of the pending rejection under 35 U.S.C. §103(a) to Claims 1-4, and 6 is respectfully requested and allowance solicited.

With respect to the pending rejection to Claim 2, Applicant respectfully disagrees. Claim 2 recites a method in which the event is a predetermined time with respect to the program. Neither the cited passage of Levine, nor anywhere else does Levine teach monitoring for a predetermined time which is relative to the program. In contrast, Levine teaches

displaying programming for a given time block. Levine does not teach an application which is caused to be executed upon occurrence of a predetermined time with regard to the program (e.g., ten minutes from the scheduled end of the program). All Levine teaches is displaying programming for a block of time. Removal of the pending rejection is respectfully requested.

Claims 3 and 4 are believed to be allowable based on their dependence from Claim 1. Applicant will not burden the record further. Removal of the pending rejection is respectfully requested.

Claim 6 recites the step of determining event related information based on the EPG data for the received information. Levine in view of Ellis fails to teach or make obvious a method in which the event is determined from event information which is based on program guide data for the received information. For example, the method may include an application (such as a termination execution) which may be executed based on the closing credits included in a program. Instant Specification, Page 10, lines 2-11. In contrast, the cited portion of Ellis simply teaches that the data may be customized for a particular geographic region but fails to use this data to determine event related information as recited. Ellis Col. 4, lines 45-67. Removal of the pending rejection is respectfully requested.

With respect to Claim 7 (and generally Claims 8-10, and 12, which ultimately depend from Claim 7), Levine fails to disclose a program of instructions which causes an information handling system (IHS) to register an application with an event. Ellis fails to teach a program of instructions which causes an IHS to register an application and associate the application with an event. For example, by displaying program guide information ten minutes before the end of a show. Instant Specification, Page 8, line 13-Page 9, line 2. Ellis merely teaches that upon boot-up if the program guide software is not in memory the system is configured to wait for a down-load. Ellis does not teach software configured to

cause the IHS to register an application such as by associating an application which needs to be executed (e.g., started or stopped) with EPG information (Instant Specification, Page 8, lines 1-3.) and associating the application with an event (e.g., 10 minutes prior to the end of a program) as recited in the claims. In fact, Ellis never registers an application with the EPG (such as by associating the application with EPG information). Further, neither Ellis nor Levine (Specifically Col. 3 line 67 through Col. 4 line 4) (either separately or in combination) teach associating an application with an event and registering the application with respect to the EPG. Levine teaches updating the schedule at a particular time. Levine fails to register an application with the EPG and monitor for occurrence of the event while receiving information. In contrast, Levine waits for a specified time to "update the schedule" and thus fails to teach the recited method. Further, the combination of Levine and Ellis fails to make obvious the claimed combination because Ellis fails to correct Levine's deficiency. In light of the foregoing a *prima facie* case of obviousness under 35 U.S.C. §103(a) has not been met and removal of the pending rejection under 35 U.S.C. §103(a) to Claims 7, 8-10, and 12 is respectfully requested and allowance solicited.

With respect to the pending rejection to Claim 8, Applicant disagrees. Claim 8 recites a program of instructions in which the event is a predetermined time with respect to the (broadcast) program (e.g., television program). Neither the cited passage of Levine, nor anywhere else does Levine teach a program of storable instructions for monitoring for a predetermined time which is relative to the program. In contrast, Levine teaches displaying programming (e.g., a grid of block representing programs) for a block of time (e.g., from 7:00 p.m. to 10:00 p.m.). Levine does not teach an application which is caused to be executed upon occurrence of a predetermined time with regard to the program (e.g., ten minutes from the scheduled end of the program). All Levine teaches is displaying programming for a block of time. Removal of the pending rejection to Claim 8 is respectfully requested.

Claims 9 and 10 are believed to be allowable based on their dependence from Claim 7. Applicant will not burden the record further. Removal of the pending rejection is respectfully requested.

Claim 12 recites a program of storable instructions which causes an IHS to determine event related information based on the EPG data for the received information. Levine in view of Ellis fails to teach or make obvious a program of instructions which cause an IHS (such as a personal computer) to determine event related information which is based on program guide data for the received information. For example, the instruction may cause an application (such as a termination execution) to be executed based on the closing credits included in a program. Instant Specification, Page 10, lines 2-11. In contrast, Ellis simply teaches that the data may be customized for a particular geographic region but fails to use this data to determine event related information as recited. Ellis, Col. 4, lines 45-67. Removal of the pending rejection is respectfully requested.

Regarding Claim 23 (and generally Claims 24-27, which ultimately depend from Claim 23), the Office is correct that Levine fails to teach determining applications registered with an electronic program guide. The Office is incorrect that the cited passage of Ellis corrects this deficiency. The cited passage of Ellis (Col. 6, lines 7-11) discloses "When power is first applied to the system 10, the boot-strap operating software verifies that the program guide application software is resident in memory. If it is not resident, the boot-strap operating software waits for a down-load of the software." Thus, Ellis teaches that if the program guide software is not present then the guide software is down-loaded. Ellis fails to teach registering an application with an EPG (such as by linking the application to EPG data) and therefore fails to correct Levine. As the Office is aware, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Ryoka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). See also *In re Wilson*, 165 U.S.P.Q. 494 (C.C.P.A. 1970). In light of the foregoing, a *prima facie* case of obviousness under 35 U.S.C. §103(a) has not been met and removal of the pending

rejection under 35 U.S.C. §103(a) to Claims 23-27 is respectfully requested and allowance solicited.

Claims 24, 26 and 27 are believed to be allowable based on their dependence from Claim 23. Applicant will not burden the record further. Removal of the pending rejection is respectfully requested.

With regards to Claim 25, Applicant respectfully disagrees. Neither the cited portion of Levine nor anywhere in Levine is taught or suggested monitoring information (such as information received as part of the television signal (Instant Specification, Page 10, lines 1-6)). In contrast, the reference portion of Levine teaches an IR unit sending signals to the VCR. This is not the presently recited invention which monitors information (such as received as part of the television signal) between the steps of determining an event time and causing an operation. Removal of the pending rejection is respectfully requested.

Claims 13-20 and 22 stand rejected over Lawler (United States Patent Number 5,585,838), hereinafter Lawler, in view of Ellis et al. (United States Patent Number 5,986,650), hereinafter Ellis. The rejection is respectfully traversed.

In the Office's pending rejection of Claim 13, the Office cited Lawler, Col. 6, lines 8-11 as teaching means for monitoring the occurrence of a predetermined event related to information received from the selected one of the one or more information sources. Applicant disagrees. The cited portion of Lawler discloses obtaining a program schedule database. The cited portion of Lawler does not teach a program of instructions providing an EPG including a monitoring means for checking for the occurrence of a predetermined event. For example, means for monitoring the received signal to determine when the credits are broadcast. The cited portion teaches a program schedule containing information about a program, but not monitoring for the occurrence of an event related to information received. Further, the Office is correct that Lawler fails to teach means for implementing

an operation of an application with an EPG. As discussed previously, the Office is incorrect that the cited passage of Ellis corrects this deficiency. The cited passage of Ellis (Col. 6, lines 7-11) discloses "When power is first applied to the system 10, the boot-strap operating software verifies that the program guide application software is resident in memory. If it is not resident, the boot-strap operating software waits for a down-load of the software." Thus, Ellis teaches that if the program guide software is not present then the guide software is down-loaded. Ellis fails to teach registering an application with an EPG (such as by linking the application to EPG data) and therefore fails to correct Lawler. As the Office is aware, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Ryoka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). See also *In re Wilson*, 165 U.S.P.Q. 494 (C.C.P.A. 1970). In light of the foregoing, a *prima facie* case of obviousness under 35 U.S.C. §103(a) has not been met and removal of the pending rejection under 35 U.S.C. §103(a) to Claims 13-20 and 22 is respectfully requested and allowance solicited.

With respect to Claims 14 and 20, Lawler fails to teach means for providing a timing reference to said monitoring means such as by coupling a timing device (such as a timer circuit) as part of an apparatus providing the EPG. Instant Specification, Page 4, lines 26-29 and Page 8, lines 16-17. With respect to Claim 20, Lawler teaches receiving (tuning a timer) to receive a signal assigned to the channel. Lawler Col. 13, lines 47-51. Rather the presently recited subject matter provides a timing reference to the monitoring means rather than receiving the timing as part of the monitored signal received from the selected one of the one or more information sources. Removal of the pending rejection is respectfully requested and allowance solicited.

Claims 15-19 and 22 are believed to be allowable based on their dependence from Claim 13. With respect to Claim 15, as the Office is well aware, Applicants are required to seasonably challenge statements by the Office that are not supported on the record. M.P.E.P. §2144.03. Further, it is noted that "Official Notice" is to be limited to instances

where the facts are "capable of instant and unquestionable demonstration as being well-known". M.P.E.P. §2144.03. This is not the present situation. First, in accordance with M.P.E.P. §904 it is presumed that a full search was conducted and this search is indicative of the prior art. The search failed to disclose a reference which would teach or suggest modifying the Lawler reference to achieve the present invention wherein means for storing registry information is included. Consequently, the search revealed that the asserted substitution is not well-known and therefore is not entitled to be relied upon in order to reject the present claimed invention. If the Office is unable to provide such a reference, and is relying on facts based on personal knowledge, Applicants hereby request that such facts be set forth in an affidavit from the Examiner under 37 C.F.R. 1.104(d)(2). Applicant will not burden the record further. Removal of the pending rejection is respectfully requested.

CONCLUSIONS

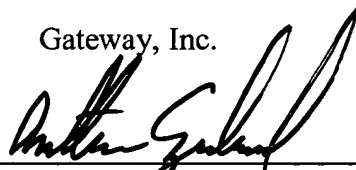
In light of the forgoing, reconsideration and allowance of the claims is earnestly solicited.

DATED: March 10, 2004.

Respectfully submitted,
Grooters, B

Gateway, Inc.

By



Nathan T. Grebasch
Reg. No: 48,600

SUITER WEST PC LLO
14301 FNB Parkway, Suite 220
Omaha, NE 68154-5299
Telephone: (402) 496-0300
Facsimile: (402) 496-0333